

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF TEXAS  
ABILENE DIVISION**

**JERRY REID**

**Plaintiff,**

**vs.**

**SAFECO INSURANCE COMPANY  
OF INDIANA,**

**Defendant.**

§  
§  
§  
§  
§  
§  
§  
§  
§  
§

**CASE NO. \_\_\_\_\_**

**DEFENDANT SAFECO INSURANCE COMPANY OF INDIANA’S  
NOTICE OF REMOVAL**

Pursuant to 28 U.S.C. §1446(a) and Local Rule 81.1, Defendant Safeco Insurance Company of Indiana (“Safeco” or “Defendant”) files this Notice of Removal, hereby removing this action from the 104<sup>th</sup> Judicial District Court of Taylor County, Texas to the United States District Court for the Northern District of Texas, Abilene Division. Removal is based on diversity jurisdiction because there is complete diversity between Plaintiff Jerry Reid (“Plaintiff”) and Defendant and the amount in controversy exceeds \$75,000, exclusive of interest and costs. In support of its Notice of Removal, Defendant would respectfully show the Court as follows:

**I.**

**INTRODUCTION**

This dispute arises from Plaintiff’s claim for hail damage to his home located at 1633 Bridge Street, Abilene, Texas 79603 (the “Property”). Plaintiff alleges that Defendant breached a policy of insurance, and violated certain provisions of the Texas Insurance Code and Texas Deceptive Trade Practices Act (“DTPA”) by, among other things, failing to pay Plaintiff’s claim for damages resulting from an alleged hailstorm.

On February 20, 2015, Plaintiff filed his Original Petition in the 104th Judicial District Court of Taylor County, Texas. Safeco was personally served with a citation and a copy of Plaintiff's Original Petition on March 13, 2015 through its registered agent for service of process. Defendant timely filed an answer to Plaintiff's Original Petition. This Notice of Removal is being filed within thirty (30) days of service of the Petition, and is thus timely filed under 28 U.S.C. §1446(b).

## **II.**

### **BASIS FOR REMOVAL**

#### **A. DIVERSITY OF CITIZENSHIP**

Removal is proper because there is complete diversity between the parties. *See* 28 U.S.C. § 1332(a). Plaintiff Jerry Reid is a citizen of Texas. *See* Plaintiff's Original Petition ¶3. Safeco Insurance Company of Indiana is a corporation organized under the laws of the State of Indiana, with its principal place of business in Boston, Massachusetts.

#### **B. AMOUNT IN CONTROVERSY**

Generally, the amount in controversy for purposes of establishing federal jurisdiction should be determined by the plaintiff's complaint. *De Aguilar v. Boeing Co.*, 47 F.3d 1404, 1411-12 (5th Cir. 1995). Here, it is apparent from the face of Plaintiff's Original Petition that its claims exceed \$75,000.00. In paragraph 70 of the Petition, Plaintiff states that "Plaintiff seeks monetary relief over \$100,000... ." *See* Plaintiff's Original Petition, ¶ 70.

Therefore, removal of this action is proper under 28 U.S.C. § 1441(a). This is a civil action brought in state court and this Court has original jurisdiction over the subject matter pursuant to 28 U.S.C. § 1332(a). In addition, Plaintiff's citizenship is diverse from Safeco. Finally, as alleged in his petition, Plaintiff seeks to recover in excess of

\$100,000.00 from Defendant. Therefore, the amount in controversy in this case clearly exceeds \$75,000.00.

**CONSENT TO REMOVAL UNNECESSARY**

Safeco is the only defendant named in Plaintiff's Petition, thus, no additional consent is needed for removal.

**COMPLIANCE WITH PROCEDURAL REQUIREMENTS**

As required by Local Rule 8.1(a), filed concurrently with this Notice of Removal is a completed civil cover sheet, supplemental civil case cover sheet and a signed Certificate of Interested Persons that complies with LR 3.1(c). Additionally, the following exhibits are attached:

- **EXHIBIT A** Index of all documents filed in state court;
- **EXHIBIT B** Register of Actions in the state court action;
- **EXHIBIT C-1-C-2** A copy of each document filed in the state court action.

**III.**

**CONCLUSION AND PRAYER**

Based on the foregoing, Defendant Safeco Insurance Company of Indiana respectfully requests that the above-captioned action now pending in the 104th Judicial District Court of Taylor County, Texas be removed to the United States District Court for the Northern District of Texas, Abilene Division.

Respectfully submitted,

*/s/ Mark D. Tillman*

---

MARK D. TILLMAN  
State Bar No. 00794742  
MICHAEL C. DIKSA  
State Bar No. 24012531

**TILLMAN BATCHELOR LLP**  
1320 Greenway Drive, Suite 830  
Irving, Texas 75038  
Telephone: (214) 492-5720  
Facsimile: (214) 492-5721  
Email: mark.tillman@tb-llp.com  
mike.diksa@tb-llp.com

**ATTORNEYS FOR DEFENDANT  
SAFECO INSURANCE COMPANY OF  
INDIANA**

**CERTIFICATE OF SERVICE**

This is to certify that a true and correct copy of Defendant's Notice of Removal has been forwarded to Plaintiff's counsel of record via electronic means and/or facsimile, on the 8th day of April 2015 in accordance with the Federal Rules Of Civil Procedure

**ATTORNEYS FOR PLAINTIFF**

Bill L. Voss  
SBN 24047043  
Scott Hunziker  
SBN 24032446  
Christopher Schleiffer  
SBN 24088362  
THE VOSS LAW CENTER  
26619 Interstate 45 South  
The Woodlands, Texas 77380  
Telephone: (713) 861-0015  
Facsimile: (713) 861-0021  
bill@vosslawfirm.com  
scott@vosslawfirm.com  
chris@vosslawfirm.com

*/s/ Mark D. Tillman*  
\_\_\_\_\_  
MARK D. TILLMAN